

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

JOSEPH PATRICK BROWN

PETITIONER

VS.

CIVIL ACTION NO.: 5:12CV91HSO

**CHRISTOPHER EPPS, Commissioner,
Mississippi of Corrections; EARNEST LEE,
Superintendent, Mississippi State Penitentiary
at Parchman, Mississippi**

RESPONDENTS

**ORDER SETTING DEADLINES FOR APPLICATION
TO PROCEED *IN FORMA PAUPERIS* AND MOTION
FOR APPOINTMENT OF COUNSEL**

This matter came before the Court *sua sponte* to set a deadline for filing an Application to Proceed *in forma pauperis* and a Motion for Appointment of Counsel. This is a capital habeas case. Joseph Patrick Brown was convicted of capital murder in the Circuit Court of Adams County for the 1992 killing of convenience store clerk Martha Day, and he was sentenced to death. He appealed his conviction and sentence to the Mississippi Supreme Court, which affirmed both. *Brown v. State*, 682 So. 2d 340 (Miss. 1996). Brown filed a petition for a writ of habeas corpus with this Court, but it was dismissed without prejudice, so that Brown could return to state court and exhaust his claims. *Brown v. Puckett*, No. 5:97cv97. He subsequently filed a petition for post-conviction relief, which the Mississippi Supreme Court denied. *Brown v. State*, 88 So. 3d 726 (Miss. 2012). Brown then returned to this Court and filed an Amended Petition for Writ of Habeas Corpus in Cause No. 5:97cv97. Because that case had been closed, the Court has reopened this matter with a new case number, and Brown's Amended Petition has been filed in this case.

Brown's Amended Petition was filed by his post-conviction counsel, James W. Craig, who has expressed a desire to be appointed in this case. Before counsel may be appointed, however, it

must be established that Brown is financially unable to obtain adequate representation, as contemplated by 18 U.S.C. § 3599(a)(2). The Court will, therefore, set a deadline by which Brown should submit his Application to Proceed *in forma pauperis* and his Motion for Appointment of Counsel. Given the seriousness and complexity of this case, the Court is inclined to appoint co-counsel for this matter and will consider Brown's recommendation for a second attorney. When counsel is appointed, the Court will set a briefing schedule for this matter.

IT IS, THEREFORE, ORDERED that Petitioner submit his Application to Proceed *in forma pauperis* and his Motion for Appointment of Counsel on or before September 10, 2012.

IT IS SO ORDERED, this the 13th day of August, 2012.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE